

EXHIBIT C

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

BEFORE THE HONORABLE ALEXANDRA ROBERT GORDON, JUDGE PRESIDING

DEPARTMENT NUMBER 12

---oOo---

THE PEOPLE OF THE
STATE OF CALIFORNIA,

Plaintiff,

vs.

JIMMY TANNER,

Defendant.

Court No. 19017261
CALENDAR

COPY

Reporter's Transcript of Proceedings

October 5, 2021

GOVERNMENT CODE § 69954(d): "ANY COURT, PARTY, OR PERSON WHO HAS PURCHASED A TRANSCRIPT MAY, WITHOUT PAYING A FURTHER FEE TO THE REPORTER, REPRODUCE A COPY OR PORTION THEREOF AS AN EXHIBIT PURSUANT TO COURT ORDER OR RULE, OR FOR INTERNAL USE, BUT SHALL NOT OTHERWISE PROVIDE OR SELL A COPY OR COPIES TO ANY OTHER PARTY OR PERSON."

Reported By: Carlito M. Mandia, CSR 9689, RPR, CRP, CRR, RMR

APPEARANCES OF COUNSEL:

For the People:

CHESA BOUDIN
District Attorney
350 Rhode Island St.
North Building, Suite 400N
San Francisco, CA 94103
BY: ANUPA GEORGE
Assistant District Attorney

For the Defendant:

Manohar Raju, Public Defender
555 Seventh St., Ste. 205
San Francisco, CA 94103
BY: Sliman Nawabi
Attorney at Law

For the Victim Mr. Le:

King & Spalding
50 California St., Ste. 3300
San Francisco, CA 94111
BY: Quyen Ta
Attorney at Law

Reported By: Carlito M. Mandia, CSR 9689, RPR, CRP, CRR, RMR

1 October 5, 2021

2 P R O C E E D I N G S

3 THE COURT: Line 14, People v Tanner.

4 MS. TA: Good morning, your Honor.

5 My name is Quyen Ta from King & Spalding, appearing on
6 behalf of the victim, Mr. Anh Le.

7 He was a victim of a brutal attack on November the 2nd. We
8 had been if Department 30. We just need a corrected protective
9 order to correct his name, to have his right age. And we're
10 working with the district attorney's office on this.

11 And we're hoping that you can sign this corrected protective
12 order. And once that is done, I think that's all we need.

13 I spoke to the DDA this morning. She said that the
14 defendant needs to be here to be served. But I also spoke to
15 the public defender, and he said he can serve, and we can get a
16 proof of service with the Court.

17 THE COURT: Just to back up, what you're saying is that this
18 case was originally in this department.

19 So a CPO, that was incorrect.

20 MS. TA: Correct.

21 THE COURT: In some way, it didn't have the victim's correct
22 name and age on it --

23 SPEAKER 2: Correct.

24 THE COURT: -- when it was issued?

25 When did that happen?

26 MS. GEORGE: The issued CPO was in April of this year.

27 Usually we only put the last name and initial for people
28 with certain age.

1 And from my understanding, the victim wants a full name on
2 the CPO.

3 THE COURT: I see.

4 This went to Department 30, and Department 30 sent it back
5 here to correct the criminal protective order?

6 MS. GEORGE: I believe it was in Department 30 for
7 restitution, and then this came up. And somehow it ended up in
8 this department.

9 MS. TA: We've been sent around everywhere, your Honor.
10 This victim didn't even -- I mean his Marsy's law rights were
11 violated.

12 It's not just the name. It's his age also. His age is
13 incorrect.

14 THE COURT: Not a problem.

15 Let's put an end to that and fix it right now.

16 I'm sorry that you're required to actually take this
17 additional step as really anyone can terminate an incorrect
18 protective order and sign a new one.

19 I know I've done it for other people. So it certainly can
20 be done.

21 And I apologize for the inconvenience, and I'm sure it must
22 be very upsetting, because it requires people to relive
23 incidents every time they have to come to court and ask for
24 something I'm sure.

25 I'm very sorry that that has happened. And that's as
26 much -- I feel like I have information to come.

27 MS. TA: Thank you. We really deeply appreciate it.

28 This is our third court hearing. We've asked the district

1 attorney's office to assist, but to no avail. So we came to
2 court and we very much appreciate it.

3 THE COURT: Could I please have a termination order of the
4 orders that's wrong.

5 And Mr. Nawabi, as I understand it, you're representing that
6 even though your client is not here, you are willing to accept
7 service on your client's behalf and get him the order, and that
8 there will be no argument going forward if anything, except
9 personal service has actually happened here today.

10 MR. NAWABI: Yes. I'm in contact with my client.

11 At the last court hearing, with Judge Caffese, that was our
12 understanding, which is why my client is not here. I'm happy to
13 serve it on him and represent that to the court.

14 THE COURT: Sir, I see that you have your hand up.

15 Is there something that you wanted to say?

16 MR. LE: Yes, your Honor.

17 THE COURT: Would you start just by telling me your name.
18 If you're comfortable spelling it, if you would do that as well,
19 I would appreciate it.

20 MR. LE: May I speak to you, your Honor?

21 THE COURT: Yes. Of course you can. If you would just tell
22 me your name, please, or as much of your name as you're
23 comfortable.

24 MR. LE: Good morning, your Honor.

25 THE COURT: Good morning, sir.

26 What is your name?

27 MR. LE: My name is Anh Le. Good morning, your Honor.

28 First name is A-N-H. My last name is spelled, L-E.

1 I'm 69. I'm a Vietnamese-American person, and citizen of
2 the United States of America.

3 And as you will see, your Honor, from reading the
4 transcripts of all the court hearings, including the
5 July 28th restitution hearing, including, the
6 September 20th hearing, as my attorney Ms. Theresa Le Ta that's
7 presented to the court, in each of those court hearings, my
8 lawyer, Ms. Ta, keeps asking the court to please provide for me
9 a properly issued criminal protective order.

10 Your Honor, I wish to let you know, and the court of San
11 Francisco know, that I was brutally attacked and assaulted at
12 broad daylight at 1118 Stockton Street, in front of a Chinese
13 grocery store on November 2nd, 2019, by Jimmy Tanner,
14 250 pounds, and his adolescent son, who beat me repeatedly with
15 a long baseball bat.

16 They were arrested by Officer William Ma, and the other San
17 Francisco police officers.

18 That evening, Mr. Tanner, Jimmy Tanner, was arrested by San
19 Francisco Police for felony terroristic threats, felony elder
20 abuse, and battery.

21 And yet, the district attorney's office, namely, the
22 so-called victim's advocate Priscilla Portillo (phonetics), your
23 Honor, and assistant district attorney Diego Lopez had the
24 audacity to send me an e-mail on or about April 13th, saying
25 simply:

26 Hi, Mr. Le. Yesterday, we resolved the case. Defendant
27 pled to battery with one year -- I'm sorry. Let me repeat.

28 The one sentence e-mail from so-called victim's advocate,

1 Priscilla Portillo of the district attorney's office, and
2 Diego Lopez, which was about one sentence long or so, stated,
3 and I quote, your Honor:

4 Yesterday, we resolved the case. Hi. yesterday, we resolved
5 the case. Defendant pled to battery, one year probation, victim
6 restitution, and criminal protective order.

7 And as my lawyer, Ms. Ta, has already said to you, as well
8 as Judge Teresa Caffese, and also Judge Carolyn Gold, to this
9 day, your Honor, I still do not have a properly issued criminal
10 protective order. And that, to me, your Honor, if I may say so
11 respectfully to you and the Court of San Francisco, that is a
12 travesty of justice.

13 As Judge Teresa Caffese at the July 28th restitution hearing
14 stated to the assistant district attorney Gregory Flores,
15 F-L-O-R-E-S, and I quote, as per the transcript, which I have
16 read, Judge Teresa Caffese said -- and, you know her, your
17 colleague, to be a calm and rational and exceptional judge.

18 However, at one point, after having listened to my victim
19 impact statement, after having listened to the presentations of
20 my esteemed lawyer, Ms. Ta, as well as having listened to
21 assistant district attorney Gregory Flores, she actually, your
22 Honor, said this, raising both of her hands, and her arms, and
23 her voice raised slightly, firmly said, sternly said to the
24 assistant district attorney Gregory Flores, and I quote:

25 Who arranged this. Who did this. What about Marsy's Law.
26 What about Marsy's Law. End of quote, your Honor.

27 Let me wrap this up by saying this, your Honor.

28 THE COURT: I'm listening.

1 **MR. LE:** Your Honor, I wish to let you know, your Honor,
2 that throughout the course in history of this case, including
3 when the district attorney's office first came on the scene, my
4 e-mail -- and I have the entire series of e-mails, your Honor,
5 which I would gladly provide to you confidentially, your Honor.

6 So-called victim advocate Priscilla Portillo, and at that
7 time, the assistant district attorney was a young man named
8 Dennis Chow, who was assigned to the case very briefly, very
9 briefly, and then later on Diego Lopez came on scene, your
10 Honor, I just wish to state to you, your Honor, and the court of
11 San Francisco, and to the public here, that throughout the
12 course in history of my case, your Honor, this has been a
13 travesty of justice.

14 Marsy's Law, your Honor, has been constantly violated by the
15 district attorneys from the get-go, from the get-go, from the
16 very beginning.

17 I sent so-called victim's advocate Priscilla Portillo and
18 Diego Lopez e-mails, some of which are not even answered. It's
19 a travesty of justice.

20 The district attorney's office, as far as I'm concerned,
21 your Honor, and I say this to you respectfully as the presiding
22 judge, as your Honor, I wish to state for the record that the
23 district attorney's office in my case has flagrantly violated
24 Marsy's Law constantly, over and over, and over, and over again,
25 flagrantly and with impunity.

26 And I request respectfully, your Honor, the Court, to please
27 address that once and for all.

28 Because you know, my attorney here, Ms. Ta, you know, who

1 helps in Berkeley, and years of California, College of the
2 Hastings of law which your colleagues have gone too also.

3 This is her third time here. And you know why, Judge?

4 Is it Roberts?

5 THE COURT: Just Gordon is fine.

6 MR. LE: I'm sorry, Judge.

7 THE COURT: That's okay, Mr. Le.

8 My name is really confusing. I have three first names.

9 MR. LE: Your Honor, Judge Gordon, you know this is the
10 third time my esteemed lawyer is here. And the reason she keeps
11 returning is because she has been getting -- just for your own
12 information, and you can verify this from reading the
13 transcripts.

14 She sent by the so-called assistant district attorney who I
15 do not see here today, Greg Flores. I don't know where he went
16 to law school, your Honor.

17 But nevertheless, your Honor, you know, she's a partner in a
18 national and international law firm, and yet she's treated
19 shabbily by the district attorney's office and sent round, and
20 round, and round, just to ask her one simple document called a
21 criminal protective order.

22 And to this day, October 5th, 2021, your Honor, Judge Gordon
23 I still do not have that.

24 Thank you for listening to me, your Honor.

25 THE COURT: You don't have to thank me. You have a
26 constitutional right to be heard, Mr. Le, and I'm happy to
27 listen to you.

28 MR. LE: Thank you, your Honor.

1 THE COURT: I want to make sure -- first of all, just to let
2 you know, that obviously you are enraged about the way that you
3 had been treated. And I appreciate that.

4 So if I'm understanding the source of that, you're upset.
5 You're upset. Upset is an understatement. But the reason for
6 your outrage here is a variety of what you perceived to be
7 violations of Marsy's Law.

8 And one of those, is that you have not been able to get a
9 CPO with your full name and correct age on it; is that right?

10 **MR. LE:** Yes, your Honor.

11 May I say something?

12 THE COURT: Hang on.

13 And another thing that I heard, is that you were not told of
14 the resolution in this matter before it happened.

15 **MR. LE:** That's correct, your Honor. Thank you for stating
16 that fact.

17 THE COURT: You didn't know that.

18 So may I ask what the date of the plea is in this matter?
19 I'm trying to find it and I can't.

20 Does anyone know?

21 THE CLERK: April 12, 2021.

22 SPEAKER 2: It was April 12, 2021, according to the victim.

23 MS. GEORGE: That is correct.

24 **MR. LE:** On or around April 12.

25 THE COURT: That does appear to be right, Mr. Le.

26 **MR. LE:** May I say something, Judge?

27 THE COURT: You may. And then I would like to say some
28 things to you.

1 Yes, please, tell me, if something you haven't said, go
2 ahead.

3 **MR. LE:** Your Honor, I just wish to reiterate the fact that
4 you have to state it to me, and to everybody in this courtroom,
5 which is that, your Honor, you just stated to me, and to the
6 entire court here, and I wish to say this to you, your Honor,
7 just as to reiterate the fact that you just stated, which is
8 that one illustration, one evidence, one exhibit of how Marsy's
9 Law has been violated in my case, is that at no time did
10 so-called victim's advocate, and I underline so-called victim's
11 advocate, she's never advocated for me once.

12 So-called victim's advocate and Diego Lopez, when they sent
13 me the e-mail dated around April 12 or April 13th, saying, yes,
14 we resolved the case.

15 Your Honor, as you just stated, and I wish to reiterate this
16 fact, at no time whatsoever did so-called victim's advocate
17 Priscilla Portillo and Diego Lopez ever contact me to apprise me
18 of or consult with me that they were going to do a plea deal
19 with the man who brutally attacked me and assaulted me on
20 November 2, 2019.

21 Furthermore, I need to state one more thing. Toward the end
22 of April, when I requested by e-mail to Ms. Priscilla Portillo
23 and Mr. Diego Lopez to please provide me with a criminal
24 protective order, they handed it over to some other assistant
25 district attorney namely Colin Alexander

26 Mr. Colin Alexander who sent me by e-mail and replied to my
27 request for criminal protective order. He sent me a number of
28 e-mails. He said I'm going on vacation.

1 THE COURT: Okay.

2 MR. LE: I don't see your name. You're not even in our
3 system. You don't even exist. You don't even exist.

4 I do exist, your Honor.

5 THE COURT: Of course you do, Mr. Le. I think I'm going to
6 stop you there.

7 I'm going to stop you there.

8 MR. LE: I will stop here.

9 THE COURT: Obviously, I have a courtroom and I have other
10 things to do.

11 MR. LE: Thank you for listening.

12 THE COURT: But today, I'm very happy to HEAR you, Mr. Le.
13 I'm only saying that so you understand I do have the need to
14 sort of cut you off.

15 Also, because I think you've ended by letting me know what
16 is obvious that you exist. And I think what's important about
17 that is, that whatever happened or didn't happen in the way your
18 case was handled, you had been made to feel invisible.

19 You had been made to feel like you don't exist and what you
20 want doesn't matter.

21 And that is a terrible, terrible, terrible way to feel. So
22 no wonder you're so upset, okay.

23 So I completely understand that. That is awful. And I want
24 you to know that I recognize that you exist, and that you have
25 legitimate upset about what has happened.

26 MR. LE: Thank you, your Honor.

27 THE COURT: I also want to tell you that -- well, of course
28 you, as a victim, have constitutional rights under Marsy's Law,

1 and you know what they are. You have told me what they are.

2 And you have a right to be consulted, and you have the right
3 to be here.

4 I have pulled up while you were speaking, the plea
5 transcript from Mr. Tanner's case. And I do want you to know
6 that Mr. Lopez did very much convey that you were not in favor
7 of this resolution, told the Court exactly what you wanted.

8 I demand that he explain why he thought this was appropriate
9 resolution. And on the basis of what he told me, which
10 included, Mr. Le, that you absolutely did not want this
11 resolution, and that you wanted both Tanners to be charged.

12 He was pretty forthcoming about your position, Mr. Le.

13 So I heard it. And I need to tell you that because I
14 want -- I know you're very upset with the district attorney's
15 office and, you know, that is totally valid.

16 But I okayed this resolution, Mr. Le.

17 I heard all the facts and its imperfect information.

18 I heard that you had been consulted. Although I had never
19 spoken to you. I don't know you. And I don't know if you had
20 intended to come to court that day, that, I don't know; and I
21 went along with the resolution.

22 So I say that because I think some of your anger then is
23 probably rightly directed at me.

24 **MR. LE:** No, it is not.

25 **THE COURT:** And that's fine.

26 But I want you to know, from my prospective, Mr. Lopez
27 absolutely told this Court that you were not in favor of this
28 resolution.

1 And I always ask. So he did tell me that.

2 And he still thought it was an appropriate resolution, and
3 based on a number of factors, so did I.

4 So that's where we are. And here is the thing: Mr. Tanner
5 has pled, and maybe that was a good resolution, or maybe it was
6 terrible, maybe it is the travesty that you say, maybe it's
7 somewhere in between.

8 It's certainly a travesty to you because of what you
9 experienced. I'm not going to try to talk you out of that. I
10 think you're right.

11 I think like most things in here, many things can be true
12 for each of us at the same time.

13 And what is true for you -- so what is true is this is a
14 travesty. It is done. We cannot unwind it. I can only
15 apologize to you for the experience that you have had in this
16 building, and for any part that the Court has played in it.

17 I am absolutely sorry. We are here to serve, and I know
18 that all of us take that duty extremely seriously.

19 And it seems that we have failed you in our service, and
20 that is absolutely not okay.

21 So I do want to offer my apology to you for that, because I
22 am of that failure. And you deserve to feel absolutely
23 100 percent differently than you do about the resolution of this
24 matter.

25 I also want to tell you that I have signed this new criminal
26 protective order, and I want to read it now to Mr. Nawabi.

27 I've made an addition, and I've initialed it, and I will
28 explain what that is.

1 So the restrained party is the defendant, Jimmy Tanner. And
2 the protected parties, there are three of them.

3 Chi, C-H-I; Fung, F-U-N-G; Wong, W-O-N-G.

4 Siu Yuen Chung S-I-U, Y-U-E-N, Chung. And then Anh, A-N-H,
5 L-E. And it clearly states Mr. Le's full name, and that he is a
6 69 year old man.

7 The terms, Mr. Nawabi, are the same as what they had been,
8 but I want to read them. It's extremely important that you
9 relay this to Mr. Tanner.

10 Mr. Tanner must have no personal, electronic, telephonic or
11 written contact with the protected parties.

12 He cannot have any contact with them through a third-party
13 except an attorney of record.

14 Mr. Tanner must not come within 150 yards of the protected
15 parties. And the protected parties may record any prohibited
16 communications made by the restrained person, Mr. Tanner.

17 I have, in box number three, where it says that defendant
18 was personally served. I have indicated that the service has
19 occurred through his attorney, Sliman Nawabi, who waives any
20 argument, re service.

21 As I have said, I feel strongly that this get taken care of
22 today, and that there would be no argument that Mr. Tanner has
23 failed to have been personally served with this order.

24 I have signed it.

25 I'm giving it to Madame Clerk for filing. When it is filed,
26 I will ask that a copy be served to Mr. Nawabi for service to
27 Mr. Tanner, and a copy be given to Mr. Le.

28 **MR. LE:** Thank you, your Honor.

1 THE COURT: You're very welcome.

2 I am also terminating the previous order which didn't have
3 people's full names, simply because it's not good to have two
4 dueling orders in the system.

5 MR. LE: May I say something, your Honor?

6 THE COURT: You may, and then I'm afraid I'm going to have
7 to move on.

8 MR. LE: Yes, Your Honor. I just wish to say to you, your
9 Honor, very respectfully, that I appreciate everything that
10 you're doing on my behalf, including just signing the criminal
11 protective order.

12 I also would like to ask, your Honor, whether the criminal
13 protective order that you have just signed could be made either
14 permanent or renewable to become permanent.

15 THE COURT: No. It usually lasts for the term of probation.
16 And under certain circumstances, it could last for ten years.

17 I don't have anything in front of me that let's me do that.
18 That's a conversation between you and your excellent attorney.

19 MR. LE: May I just say one more thing, your Honor, and I'll
20 rap it up. Promise.

21 THE COURT: That's a promise. Promises are --

22 MR. LE: I just wish to reiterate what I said to you before.
23 I'm upset not at you, your Honor.

24 But how I've been treated by the district attorney's office,
25 as well as the public defender's office -- I just want to say by
26 way of clarification here. I heard you say a moment ago that
27 assistant district attorney Diego Lopez communicated through the
28 court or to you that the resolution was presented to Mr. Le and

1 he objected to it strongly.

2 Well, I just want to say for the last time, your Honor, the
3 resolution, the proposed resolution was never presented to me.

4 THE COURT: Okay. I'm really sorry for that.

5 **MR. LE:** Thank you, your Honor.

6 I'm very grateful to you, your Honor. Thank you very much.

7 THE COURT: You're very welcome.

8 MS. GEORGE: Before we finished. I'm giving a copy of the
9 new criminal protective order to Mr. Le, and two copies to
10 Mr. Nawabi so he can serve Mr. Tanner.

11 I will just shortly add, this is Anupa George, for the
12 People. I've known Mr. Lopez for more than three years. He
13 does analyze every case thoroughly, and he did in this case as
14 well.

15 And we apologize that Mr. Le is upset with the result of it,
16 but I can guaranty that Mr. Lopez has analyzed the case.

17 THE COURT: Thank you.

18 SPEAKER 2: Thank you, your Honor.

19 It's about institutional failure. And I think today, there
20 were some rectification of that.

21 We're very grateful to your Honor for today's process.

22
23 ---oOo---
24
25
26
27
28

1 State of California)
2 County of San Francisco)

3
4 I, Carlito M. Mandia, Official Reporter for the
5 Superior Court of California, County of San Francisco, do hereby
6 certify:

7 That I was present at the time of the above proceedings;

8 That I took down in machine shorthand notes all proceedings
9 had and testimony given;

10 That I thereafter transcribed said shorthand notes with the
11 aid of a computer;

12 That the above and foregoing is a full, true, and correct
13 transcription of said shorthand notes, and a full, true and
14 correct transcript of all proceedings had and testimony taken;

15 That I am not a party to the action or related to a party
16 or counsel;

17 That I have no financial or other interest in the outcome
18 of the action.

19
20 Dated: October 13, 2021

21
22
23
24


25 _____CMM

26 Carlito M. Mandia, CSR 9689, RPR, CRR, RMR
27
28